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March 7, 2008

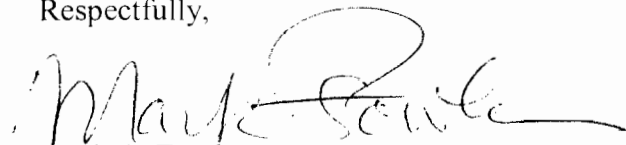
The Honorable Charles L. Brieant  
United States District Judge Chambers  
United States Court House  
300 Quarropas Street  
White Plains, New York 10601

Re: Zherka v. Amicone, No. 07 Civ. 9618 (CLB)

Dear Judge Brieant,

We represent The Journal News, a division of Gannett Satellite Information Network, Inc., nonparty witness in the above-referenced matter. On February 15 we moved on behalf of our client to quash a subpoena issued by plaintiff Selim Zherka, which is currently scheduled for a hearing on Friday, March 14. I write to bring to your attention the fact that, on March 3, plaintiff filed a response conceding that service of the subpoena was improper. (A copy of the response is enclosed.) In light of plaintiff's concession, we assume that an appearance by the parties on March 14 is no longer required. If this assumption is incorrect, we would appreciate it if your chambers could let us know.

Respectfully,

  
Mark A. Fowler

MAF/fa

cc: Jonathan Lovett, Esq.  
Kevin Joseph Plunkett, Esq.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

SELIM ZHERKA,

Plaintiff,

-against-

PHILIP AMICONE, *et ano*,

Defendant.

-----X

**PLAINTIFF'S MEMORANDUM OF LAW  
IN RESPONSE TO MOTION TO QUASH  
SUBPOENAS BY GANNETT SATELLITE  
INFORMATION NETWORK, INC.**

Preliminary Statement

This memorandum is submitted in response to Gannett Satellite Information Network, Inc.'s motion to quash various subpoenas as referenced in their moving papers.

**POINT**

**SINCE SERVICE OF THE  
SUBPOENAS WAS DEFECTIVE,  
THE MOTION TO QUASH IS MOOT**

On the basis of the declaration of Roberta Maurer, movants urge (Memorandum at p. "2" and "3" that service of the at-issue subpoenas was ineffective. Since we are not in a position to challenge Maurer's representations of fact, we concede the point. As

such, we agree with movants' acknowledgement that "the Court need not reach the First Amendment issues implicated by the subpoenas" (Memorandum at "5").

Conclusion

The motion to quash is academic and should be dismissed.

Dated: White Plains, N.Y.  
March 3, 2008

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BY: 

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